THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 20857 of 2004

Dated: 23.11.2006

Between:

M.V. Ramana, S/o M. Kondaiah, aged 55 years, Occ: Conductor, APSRTC, R/o D.No.28-1685(1A), Nunepalli, Nandyal, Kurnool District.

.... PETITIONER

AND

Industrial Tribunal-cum-Labour Court, rep. by its Chairman-cum-Presiding Officer, Anantapur and another.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE N.V. RAMANA

Writ Petition No. 20857 of 2004

Order:

Assailing the award dated 30.01.2003, passed by the Labour Court, Anantapur, in I.D. No. 111 of 2000, published in G.O. Rt. No. 697, dated 04.04.2003, the petitioner filed the present writ petition.

The petitioner was appointed as Conductor in the 2nd respondent-APSRTC in the year 1978. On 14.03.1999, while the petitioner was conducting the bus on the route Secunderabad to Badvel, a check was exercised, and the checking officials having found certain cash and ticket irregularities, issued charge memo to the petitioner. Subsequently, the 2nd respondent-APSRTC placed the petitioner under suspension, and a charge sheet was issued. The petitioner submitted his explanation denying the charges framed against him. Dissatisfied with the same, an enquiry was conducted, and the Enquiry Officer, who conducted enquiry into the charges leveled against the petitioner, submitted his report holding that the charges are proved. Based on the enquiry report, the 2nd respondent, namely the Depot Manager issued notice to the petitioner, calling upon him to show cause as to why he should not be removed from service. The petitioner submitted his explanation thereto. However, vide proceedings dated 01.07.1999, the 2nd respondent removed the petitioner from service. Assailing the order of removal, the petitioner preferred appeal and review before the appellate and review authorities, which were rejected. Thereafter, he raised an industrial dispute in I.D. No. 111 of 2000 before the Labour Court, which by award dated 30.01.2003, published in G.O. Rt. No. 697,

dated 04.04.2003, dismissed the same, upholding the orders of the disciplinary authority. Assailing the said award and notification, the petitioner filed the present writ petition.

The learned counsel for the petitioner submitted that the petitioner did not commit any cash and ticket irregularities, and that when the petitioner asked the passengers, who boarded the bus at the outskirts of Nandyal, to purchase tickets, they threatened him with dire consequences, and they did not pay him fare and purchase tickets. He further submits that the Checking Officials, having recorded the statements of the passengers, failed to check the bus cash, and the Labour Court without properly appreciating the said facts, erred in confirming the order passed by the disciplinary authority, and at any rate, he contended that the punishment of removal from service imposed on the petitioner is disproportionate to the proved charges. He thus prayed that the impugned order be set aside and the petitioner be reinstated into service with full backwages.

The learned Standing Counsel for respondent No.2-APSRTC reiterating the stand taken in the counter-affidavit submitted that the petitioner, having collected requisite fare from 10 passengers, who boarded the bus at Nandyal, issued tickets to them, which were already issued in the previous trips and unconnected to the service and committed serious cash and ticket irregularities, and the charges leveled against the petitioner were held proved by the Enquiry Officer in the departmental enquiry, and based on the enquiry report, the disciplinary authority imposed punishment of removal from service on the petitioner, which was confirmed by the Labour Court. Having regard to the nature of the proved charges, the punishment of removal from service, cannot be said to be disproportionate, warranting interference therewith by this Court in exercise of its jurisdiction under Article 226 of the Constitution of India. He thus prayed that the writ petition be dismissed.

Heard the learned counsel for the petitioner, and the learned Standing Counsel for respondent No.2-APSRTC.

The parameters and scope of judicial review of this Court under Article 226 of the Constitution of India to issue a writ of certiorari are limited to – firstly to correct errors of jurisdiction when the inferior Court or Tribunal acts without jurisdiction or in excess or fails to exercise it, secondly correct errors of law apparent on the face of the record, and thirdly correct and interfere with the findings that are base on suspicion, conjectures or surmises or no reason. It is within these parameters, the award of the Labour Court has to be examined.

As can be seen from the award of the Labour Court, the Labour Court, on point No.1, held that the domestic enquiry is valid. The petitioner was charge sheeted alleging that he having collected the requisite fare of Rs.23/- each from ten passengers, who boarded the bus at Nandyal, reissued five tickets bearing Nos.288/535511, 512 of Rs.20/- denomination, 088/409330, 331 of Rs.3/- denomination, 286/274422 of Rs.2/- denomination, which were issued in the up trip of same service and also issued 13 unconnected tickets in addition to same batches bearing Nos.286/714314, 367, 370, 371, 287/534979, 980, 981; 286/717081 of Rs.20/- denomination; 088/409308 to 311 and 313 of Rs.3/- denomination. The charges leveled against the petitioner, stood proved in the departmental enquiry. The disciplinary authority, considering the nature of the proved charges, imposed punishment of removal from service. The Labour Court, upon analyzing the evidence before it, observed that the contention of the petitioner-workman that since the passengers threatened him with dire consequences, he did not collect fare and issue tickets to them appears to be an after thought, for when the tickets produced by the passengers were verified with the S.R., it revealed that some of the tickets were already issued in the previous trips and some of the tickets were unconnected to the service, and the petitioner also did not give any spot explanation disputing the same. The Labour Court, having found that the petitioner, having collected requisite fare from the passengers, issued re-issued and unconnected tickets and intentionally committed serious cash and

ticket irregularities, held that the punishment of removal from service imposed by the disciplinary authority is proportionate to the proved charges. The findings arrived at by the Labour Court being based on proper appreciation of the evidence on record, I see no reason whatsoever to interfere therewith, more so when the charges leveled against the petitioner stood proved in the departmental enquiry and the petitioner also failed to point out any infirmities in the conduct of the departmental enquiry.

In **Divisional Controller, KSRTC (NWKRTC) v. A.T. Mane**[1], the apex Court held that once a domestic tribunal based on evidence comes to a particular conclusion, normally it is not open to the appellate tribunals and courts to substitute their subjective opinion in the place of the one arrived at by the domestic tribunal. On the question of quantum of punishment, the apex Court held as follows:

> Coming to the question of quantum of punishment, one should bear in mind the fact that it is not the amount of money misappropriated that becomes a primary factor for awarding punishment, on the contrary, it is the loss of confidence which is the primary factor to be taken into consideration.

In the instant case, the charges leveled against the petitioner stood proved, and having regard to the gravity and seriousness of the proved charges, the 2nd respondent-Depot Manager having lost confidence in the petitioner, removed him from service. In such circumstances, I am of the considered opinion that no interference is called for with the impugned award passed by the Labour Court, which upheld the punishment of removal from service imposed on the petitioner by the disciplinary authority, as confirmed by the appellate and review authorities.

For the foregoing reasons, there is no merit in the writ petition, and the same is accordingly dismissed. No costs.

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N.V. RAMANA, J.

Date: 23.11.2006
Nsr/Grr

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[1] (2005) 3 SCC 254